

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Lempert Analyst: Roger Lackey Bill Number: AB 152

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 04-27-99

Attorney: Patrick

Sponsor:

Kusiak

**SUBJECT:** NOL Deduction Carryover/Losses On Or After 1/1/2000/Allowed For Entire Loss & For 20 Years/No Carrybacks/FTB Study Effectiveness Of NOLs

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO Neutral.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 15, 1999, STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

This bill would conform to federal law, except for carrybacks, and allow 100% of a net operating loss (NOL) to be carried forward for 20 years.

This bill would require the Franchise Tax Board (FTB) to present to the Legislature on or before January 31, 2000, a study regarding the effectiveness of NOLs.

### SUMMARY OF AMENDMENT

The April 27, 1999, amendments revised the NOL provisions of the bill to reflect the language suggested in the department's analysis of AB 152 as introduced January 15, 1999.

The amendment also added the NOL study requirement.

By accepting the department's language, the April 27 amendments resolved the implementation concerns in the department's prior analysis. However, the study requirement raises new implementation concerns. Except for these concerns and the new Board position, the department's analysis of AB 152 as introduced January 15, 1999, still applies.

### Implementation Considerations

This bill would provide that the FTB prepare a study on the "effectiveness" of NOL provisions of the Revenue and Taxation Code and submit it to the Legislature by January 31, 2000. It is unclear what the author would intend as the criteria to determine "effectiveness" since this tax treatment is provided for businesses with operating losses.

### Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input checked="" type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Department/Legislative Director

Date

**Johnnie Lou Rosas**

**5/18/1999**

The treatment recognizes that the business cycle is not tied to tax years. Measurements of "effectiveness" generally are related to incentives that are intended to change behavior, which is not applicable in this case.

Moreover, if the report is to be based, at least in part, on the NOL treatment proposed by this bill, it would be impossible for the department to analyze the impact of the new law by January 31, 2000, since the tax returns for the 2000 taxable/income years are not even due until later in the year 2001. The January 31, 2000, deadline to submit the study to the Legislature would not allow the FTB the time necessary to compile data.

In addition, since the actual impact of any change in tax law is generally not recognized or available until future years, reports analyzing the impact of tax law generally require data for approximately three years following the adoption of changes to provide accurate information with respect to taxpayer behavior in response to the changes.

#### BOARD POSITION

Neutral.

At its March 23, 1999, meeting the Franchise Tax Board voted 2-0 to take a neutral position on this bill as introduced January 15, 1999.